

# KNOW YOUR RIGHTS

## Sex Discrimination

### OFCCP Protects You from Discrimination Based on Sex

You have protections from unfair treatment on the job. If you work for or apply for a job with most companies that have a contract or subcontract with the federal government, then there are several laws that protect you from discrimination. The Office of Federal Contract Compliance Programs (or “OFCCP”) of the U.S. Department of Labor enforces these laws, including Executive Order 11246, which prohibit employment discrimination by federal contractors (including subcontractors) because of your race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran, or because you inquired about, discussed, or disclosed your compensation or, in certain circumstances, the compensation of others.

On June 14, 2016, OFCCP announced that it is updating its rule regarding sex discrimination so it matches current law and the realities of today’s workforce and workplaces. The updated rule addresses many problems that people might face in the workplace because of their sex, like unfair pay; sexual harassment; lack of accommodations because of pregnancy, childbirth, or related medical conditions; discrimination because of gender identity; and discrimination based on stereotypes about men and women, such as who the primary caregiver is in the family.

#### 1. Whom does OFCCP protect?

OFCCP enforces laws that protect the rights of applicants to and employees of companies doing business with the Federal government. You have the right to work in an environment free of unlawful discrimination. You cannot be denied employment, harassed, demoted, terminated, paid less, or treated less favorably because of any of the bases listed above.

#### 2. How does OFCCP protect pregnant women and new mothers?

Applicants to and employees of federal contractors are protected from discrimination because of pregnancy, childbirth, or related medical conditions, including loss of jobs, wages, and health-care coverage. Moreover, contractors must

provide workplace accommodations because of pregnancy, childbirth, or related medical conditions in certain circumstances when those contractors provide comparable accommodations to other workers, such as people with disabilities or work-related injuries.

#### 3. Are contractors allowed to pay employees differently because of their sex?

No. Federal contractors may not pay people differently because of their sex. For instance, contractors cannot deny opportunities for overtime work, training, or higher-paying salaries or positions because of a worker’s sex. The rule also includes a provision that lets employees file a complaint with OFCCP any time a contractor pays compensation that is the result of discrimination.

#### 4. Are contractors allowed to provide different fringe benefits to employees based on their sex?

No. Contractors may not provide different fringe benefits to employees based on their sex. Fringe benefits include medical, hospital, accident, life insurance, and retirement benefits; profit-sharing and bonus plans; leave; and other terms, conditions, and privileges of employment.

#### 5. Does OFCCP protect employees from sexual harassment by contractors?

Yes. The law prohibits unwelcome sexual advances, requests for sexual favors, offensive remarks about a person’s sex, and other unwanted verbal or physical conduct based on sex. These behaviors are prohibited when they are made a term or condition of your employment; when submitting to such behaviors—or saying no to them—is used as the basis for employment decisions; or when such conduct unreasonably interferes with your work performance or creates an intimidating, hostile, or offensive working environment.

#### 6. Do contractors have to provide equal access to jobs and development opportunities?

Yes. Contractors must provide male and female applicants and employees equal access to jobs and development opportunities. A contractor may not set requirements



that are explicitly based on an applicant's or employee's sex unless the contractor can meet the high bar of demonstrating that such requirements are "bona fide occupational qualifications" – that is, that the job can be done only by men or only by women. Additionally, a contractor may not set requirements that adversely affect applicants because of their sex unless it demonstrates that the requirements are job-related and consistent with business necessity. For example, an employer cannot set a height requirement for a job that most women cannot meet unless the employer can demonstrate that being that tall is really required to do the job. Contractors also may not grant or deny training, work assignments, or other development opportunities that may lead to advancement to higher-paying positions on the basis of sex.

## 7. Are caregivers protected from discrimination based on sex?

Yes. Contractors may not treat male and female employees or applicants differently based on stereotypical assumptions about caregiving responsibilities. For example, contractors may not deny mothers an employment opportunity that is available to fathers or deny fathers a flexible work arrangement that is available to mothers.

## 8. How are transgender workers protected by OFCCP?

Executive Order 11246, as recently amended, explicitly prohibits contractors (including subcontractors) from discriminating on the basis of gender identity, independent of the prohibition of sex discrimination. This rule on sex discrimination also makes clear that sex discrimination includes discrimination because of your gender identity. That means, for example, that contractors must allow you to use bathrooms, changing rooms, showers, and similar facilities consistent with the gender with which you identify. It also means that contractor-provided health-care benefit plans may not deny or limit health-care coverage based on your gender identity or transgender status.

You can learn more about these protections by visiting the OFCCP Web site at <http://www.dol.gov/ofccp/lgbt.html>.

## 9. May contractors treat employees differently based on sex stereotypes?

No. Contractors may not use stereotypes to treat you unfairly because you fail to comply with expectations about how women or men should look or act or what kinds of jobs men or women should do.

## Filing a Complaint

### 1. If I believe my employer discriminated against me because of my sex, may I file a complaint with OFCCP?

Yes. If you think you have been discriminated against in employment, or in applying for employment, because of your sex, you may file a complaint with OFCCP. You do not need to know with certainty that your employer is a federal contractor or subcontractor to file a complaint. OFCCP will determine whether the company is a federal contractor once it has received your complaint. OFCCP may also refer complaints to the U.S. Equal Employment Opportunity Commission (EEOC).

### 2. How do I file a complaint with OFCCP?

You may file a discrimination complaint by:

- Completing and submitting a form online through OFCCP's Web site;
- Completing a form in person at the OFCCP office that covers the location where the alleged discrimination occurred; or
- Mailing, e-mailing, or faxing a completed form to the OFCCP regional office that covers the state where you live or work.

The complaint form is available online at <http://www.dol.gov/ofccp/regs/compliance/pdf/pdfstart.htm> and in paper format at all OFCCP offices. To find the office nearest you, visit the online listing of OFCCP offices at <http://www.dol.gov/ofccp/contacts/ofnation2.htm>.

### 3. Is my employer allowed to fire, demote, or treat me less favorably because I filed a complaint?

No. Under the law, your employer may not retaliate against you for filing a complaint or participating in an investigation. OFCCP's regulations protect you from harassment, intimidation, threats, coercion, and retaliation for asserting your rights.

### 4. What will happen if OFCCP investigates my complaint and finds that I was a victim of employment discrimination?

You may be entitled to a remedy that places you in the position you would have been in if the discrimination had never happened. You may be entitled to be hired, promoted, reinstated, or reassigned; and you may be entitled to receive back pay, front pay, a pay raise, or some combination of these remedies. In addition, if OFCCP finds that the federal contractor or subcontractor violated Executive Order 11246, OFCCP could seek to have the company debarred or removed from consideration for future federal contracts or have the company's current contracts cancelled.

#### For more information:

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Washington, D.C. 20210  
1-800-397-6251  
TTY: 1-877-889-5627  
[OFCCP-Public@dol.gov](mailto:OFCCP-Public@dol.gov)  
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Please note that this fact sheet provides general information. It is not intended to substitute for the actual laws and regulations regarding the program described herein.

